



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Wendi V. RODRIGUEZA, Kevin Jon WILLIAMS, and Michael J. HOPE

Serial No.: 09/924,222

Art Unit: 1615

Filed: August 7, 2001

Examiner: Not yet assigned

For: LIPOSOMAL COMPOSITIONS, AND METHODS OF USING LIPOSOMAL COMPOSITIONS TO TREAT DISLIPIDEMIAS

BOX DAC
Commissioner of Patents and Trademarks
Washington, D.C. 20231

RECEIVED
MAR 27 2002
OFFICE OF PETITIONS

**PETITION FOR APPLICATION ON BEHALF OF
A NONSIGNING INVENTOR UNDER 37 C.F.R. § 1.47(a)**

Sir:

As authorized under 37 CFR § 1.47(a), applicants respectfully request that the above-identified application be filed in the United States Patent and Trademark Office, absent the signature of Kevin Jon Williams, a joint inventor in the above-identified application, for whom joint inventors Wendi V. Rodriguez and Michael J. Hope have signed a Declaration on his behalf.

The last known addresses of the nonsigning inventor, Kevin Jon Williams, a United States Citizen, are as follows:

425 Wister Road
Wynnewood, PA 19096
USA

and

03/27/2002 AWONDAF1 00000118 09924222

01 FC:122

130.00 OP

U.S.S.N. 09/924,222
Filed: August 7, 2001
**PETITION FOR APPLICATION
ON BEHALF OF A NONSIGNING
INVENTOR UNDER 37 C.F.R. § 1.47(a)**

Division of Endocrinology, Diabetes &
Metabolic Diseases
Thomas Jefferson University
1020 Locust Street, Suite 348
Philadelphia, PA 19107-6799
USA

Pursuant to 37 C.F.R. § 1.47(a), submitted with this petition are: (1) an executed Declaration on behalf of nonsigning inventor Kevin Jon Williams, who has refused to sign a declaration for the above-identified application, by each of joint inventors Wendi V. Rodriguez and Michael J. Hope; (2) an executed Statement of Facts in Support of Application on Behalf of a Nonsigning Inventor Who Refuses to Sign Under 37 C.F.R. § 1.47(a); (3) a Fee Transmittal (in duplicate); (4) a check for \$130.00 representing the fee required for this Petition under 37 C.F.R. § 1.17(h); and (5) a copy of the executed Declaration for Patent Application by Wendi V. Rodriguez and Michael J. Hope, the original of which was filed with the Response to Notice to File Missing Parts of Nonprovisional Application and Petition for Extension of Time Under 37 C.F.R. § 1.136(a) on March 18, 2002.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment associated with this submission to Deposit Account No. 50-1868.

U.S.S.N. 09/924,222
Filed: August 7, 2001
**PETITION FOR APPLICATION
ON BEHALF OF A NONSIGNING
INVENTOR UNDER 37 C.F.R. § 1.47(a)**

Having fulfilled the requirements of 37 C.F.R. § 1.47(a), applicants respectfully request that this Petition for Application on Behalf of a Nonsigning Inventor be granted.

Respectfully submitted,



Patrea L. Palst
Reg. No. 31,284

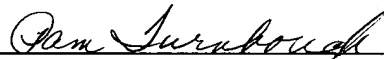
Date: March 18, 2002

HOLLAND & KNIGHT, LLP
2000 One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309
(404) 817-8473 (Telephone)
(404) 817-8588 (fax)

U.S.S.N. 09/
Filed: December 7, 1999
PETITION TO CORRECT INVENTORSHIP
UNDER 37 C.F.R. § 1.48(a)

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date shown below with sufficient postage as first-class mail in an envelope addressed to the BOX DAC, Commissioner of Patents and Trademarks, Washington, D.C. 20231.



Pam Turnbough

Date: March 18, 2002

ATL1 #438930 v1

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Please type a plus sign (+) inside this box → ☐

PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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	TRANSMITTAL FORM	Application Number	09/924,222
		Filing Date	August 7, 2001
		First Named Inventor	Wendi V. Rodriguez
		Group Art Unit	1615
		Examiner Name	
Total Number of Pages in This Submission		Attorney Docket Number	ESPN 2004

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ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input checked="" type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> 3 Statements of Facts in Support of Application on Behalf of a Nonsigning Inventor Who Refuses to Sign under 37 CFR 1.47(a); copy of Declaration for Utility or Design Patent Application
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Patrea L. Pabst Suite 2000, One Atlantic Center; 1201 West Peachtree Street; Atlanta, GA 30309-3400
Signature	
Date	3/18/2002

CERTIFICATE OF MAILING		
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: <input type="text" value="March 18, 2002"/>		
Typed or printed name	PAT TURNBOUGH	
Signature		Date 3-18-02

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

ESPN 2004 078231/00051

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FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$130.00)

Complete if Known

Application Number 09/924,222
Filing Date August 7, 2001
First Named Inventor Wendi V. Rodriguez
Examiner Name
Group Art Unit 1615
Attorney Docket No. ESPN 2004

METHOD OF PAYMENT (check one)

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number 50-1868
Deposit Account Name Holland & Knight LLP

- ☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17
☒ Applicant claims small entity status. See 37 CFR 1.27

2. ☒ Payment Enclosed:

☒ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 710	201 355	Utility filing fee	
106 320	206 160	Design filing fee	
107 490	207 245	Plant filing fee	
108 710	208 355	Reissue filing fee	
114 150	214 75	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES

Total Claims -20 = X =
Independent Claims -3 = X =
Multiple Dependent =

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
103 18	203 9	Claims in excess of 20
102 80	202 40	Independent claims in excess of 3
104 270	204 135	Multiple dependent claim, if not paid
109 80	209 40	** Reissue independent claims over original patent
110 18	210 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	
127 50	227 25	Surcharge - late provisional filing fee or cover sheet	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for <i>ex parte</i> reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for reply within first month	
116 390	216 195	Extension for reply within second month	
117 890	217 445	Extension for reply within third month	
118 1,390	218 695	Extension for reply within fourth month	
128 1,890	228 945	Extension for reply within fifth month	
119 310	219 155	Notice of Appeal	
120 310	220 155	Filing a brief in support of an appeal	
121 270	221 135	Request for oral hearing	
138 1,510	138 1,510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	
141 1,240	241 620	Petition to revive - unintentional	
142 1,240	242 620	Utility issue fee (or reissue)	
143 440	243 220	Design issue fee	
144 600	244 300	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	\$130.00
123 50	123 50	Petitions related to provisional applications	
126 240	126 240	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	
146 710	246 355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149 710	249 355	For each additional invention to be examined (37 CFR § 1.129(b))	
179	279 355	Request for Continued Examination (RCE)	
169 900	169 900	Request for expedited examination of a design application	

Other fee (specify) _____

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$130.00)

SUBMITTED BY

Name (Print/Type) Patrea L. Pabst

Registration No. (Attorney/Agent) 31,284

Complete (if applicable)

Telephone 404-817-8473

Signature

Date

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Wendi V. RODRIGUEZA, Kevin Jon WILLIAMS, and Michael J. HOPE

Serial No.: 09/924,222

Art Unit: 1615

Filed: August 7, 2001

Examiner: Unknown

For: LIPOSOMAL COMPOSITIONS, AND METHODS OF USING LIPOSOMAL
COMPOSITIONS TO TREAT DISLIPIDEMIAS

BOX DAC
Commissioner of Patents and Trademarks
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**STATEMENT OF FACTS IN SUPPORT OF APPLICATION ON BEHALF OF A
NONSIGNING INVENTOR WHO REFUSES TO SIGN UNDER 37 C.F.R. § 1.47(a)**

I, Patrea Pabst, hereby state:

1. I am the attorney of record for the above-identified application.
2. The above-identified application is identical to U.S. Patent Application No.

09/702,586, filed October 31, 2000.

3. U.S. Patent Application No. 09/702,586, along with a Declaration therefor, was provided to Kevin Jon Williams, a joint inventor, who, through his attorney Mr. William Schwarze, stated his refusal to sign the declaration associated with this application in a telephone conference call on July 24, 2001. This was confirmed by an electronic mail communication sent to Ms. Celia Philips, a paralegal under my supervision, on August 4, 2001. A printed copy of this electronic mail communication is attached hereto as Appendix A.

4. U.S. Patent Application No. 09/702,586 became abandoned on August 8, 2001, for failure to respond to the Notice of Missing Parts mailed February 7, 2001. The identical claims, numbered 1-4 and 9-20, from U.S. Patent Application 09/702,586, were filed in the above-identified patent application on August 7, 2001, as claims 1-4 and 9-20. These sixteen claims constitute all of the claims presently pending in the above-listed application.

5. A copy of the above-identified patent application, including a Declaration and Assignment for signature of joint inventor Kevin Jon Williams, was sent to both joint inventor Kevin Jon Williams, and his Attorney, Mr. William Schwarze, under two different covers, both on August 28, 2001. A first cover, addressed to Christine Ballman, Esq., at Esperion Therapeutics, Inc., as representative of Esperion LUV Development, Inc., the assignee of the entire right, title and interest of joint inventor Kevin Jon Williams of the above-listed patent application, is attached hereto as Appendix B, while a second cover, addressed to Annari Faurie, Patent Manager at the University of British Columbia, the assignee of the entire right, title and interest of joint inventors Wendi V. Rodriguez and Michael J. Hope, of the above-listed patent application, is attached hereto as Appendix C.

6. A third copy of the above-listed patent application including a Declaration and Assignment for signature of joint inventor Kevin Jon Williams, was sent under cover dated August 28, 2001, to Mr. William Schwarze, by Federal Express® courier service on September 5, 2001. This third copy and Declaration and Assignment, along with the aforementioned cover, were received at Mr. Schwarze's Office on September 6, 2001. The cover and documentation associated with its sending and receipt is attached hereto as Appendix D.

7. On October 31, 2001, a communication was sent to Mr. William Schwarze by facsimile and First Class Mail that joint inventor Kevin Jon Williams had not responded to the aforementioned letters of August 28, 2001. This communication is attached hereto as Appendix E.

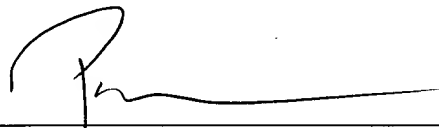
8. On January 9, 2002, a letter along with another copy of the Declaration and Assignment for the above-listed patent application, was sent via Certified Mail with a Return Receipt Requested, to joint inventor Kevin Jon Williams. Copies of this letter were also sent to each of his attorneys, Mr. William Schwarze, with enclosures including the Declaration and Assignment, and Mr. Jeffery Saltz. The letter includes a request for Kevin Jon Williams to sign the enclosed Declaration and Assignment for the above-identified patent application and noted at least three attempts to obtain his signature for the Declaration of the above-identified application, as detailed in paragraphs 5, 6 and 7 above, and that to date, no response had been received. This letter to joint inventor Kevin Jon Williams is attached hereto as Appendix F.

U.S.S.N. 09/924,222
Filed: August 7, 2001
**STATEMENT OF FACTS IN SUPPORT
OF APPLICATION ON BEHALF OF A
NONSIGNING INVENTOR WHO REFUSES
TO SIGN UNDER 37 C.F.R. § 1.47(a)**

9. The facts stated above show that joint inventor Kevin Jon Williams has refused to sign a Declaration for the above-identified application. Accordingly, Kevin Jon Williams is a nonsigning inventor under 37 C.F.R. 1.47(a), whereby the above-listed patent application may be made by joint inventors Wendi V. Rodriguez and Michael J. Hope themselves and on behalf of Kevin Jon Williams.

Date

3/18/2002

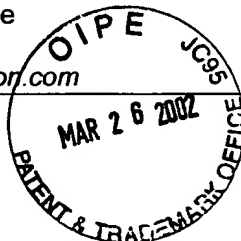


Patrea L. Pabst
Reg. No. 31,284

HOLLAND & KNIGHT LLP
Suite 2000, One Atlantic Center
1201 West Peachtree Street, N.E.
Atlanta, Georgia 30309-3400
(404) 817-8473 (Telephone)
(404) 817-8588 (Fax)

ATL1 #503281 v1

Subj: **FW: Executed Declaration**
 Date: 8/6/01 6:18:07 AM Pacific Daylight Time
 From: cmphillips@hklaw.com
 To: aepied@aol.com, christine.ballman@esperior.com



FYI

-----Original Message-----

From: Schwarze, William [mailto:WSchwarze@AKINGUMP.com]
 Sent: Saturday, August 04, 2001 11:44 AM
 To: PHILLIPS, CELIA M (ATL - X48596)
 Cc: 'K_Williams@hendrix.jci.tju.edu'; 'jsaltz@saltzlaw.com'
 Subject: RE: Executed Declaration

Dear Ms. Phillips:

This will confirm my telephone call to you late yesterday afternoon in response to the below e-mail to Dr. Williams. I left a voice mail about this on Thursday on Audix for Patrea Pabst, but I understand from you that she is out of the office until Tuesday. As I informed you and Ms. Pabst (in my voice mail), I have been retained by Dr. Williams and his general attorney Mr. Saltz to advise them in patent issues relating to this application. My PTO registration no. is 25,918.

As I informed you in our conversation, in view of the late receipt of the application documents by Dr. Williams, the length of the application and the complexity of the inventorship issues, Dr. Williams is not prepared to sign the Declaration and Power of Attorney at this time. That is not to say that he may not at some future time sign the Declaration once the inventorship issues are clarified. However, in view of the final deadline of August 7 for filing the signed Declaration and to prevent the application from going abandoned, I suggested that you file a petition under 37 CFR 1.47 to proceed with the application in the name of the other alleged inventors on the basis that Dr. Williams refuses to sign the Declaration at this time. For purposes of 37 CFR 1.47, you may take this e-mail as my assertion on behalf of Dr. Williams that he refuses to sign the Declaration at this time. Please provide us with copies of any papers which you file with the PTO.

Finally, Dr. Williams is concerned that you have not been copying his attorney Mr. Saltz on communications to him. Mr. Saltz and Dr. Williams agreed that you could write to Dr. Williams directly to save time, but only if Mr. Saltz were simultaneously copied on the communications. We assume that the failure to do so was an oversight, but please make certain that in the future all communications by your office to Dr. Williams are copied to both Mr. Saltz and me. If you need any further information for the petition, please contact me. Thank you.

Sincerely yours,
 William W. Schwarze
 Akin, Gump, Strauss, Hauer & Feld, L.L.P.
 Two Commerce Square, Suite 2200
 2005 Market Street
 Philadelphia, PA 19103
 Telephone: 215-965-1270
 Fax: 215-965-1210
 E-mail: wschwarze@akingump.com

>From: cmphillips@hklaw.com

Monday, August 06, 2001 America Online: AEPied

Law Offices

HOLLAND & KNIGHT LLP

One Atlantic Center
1201 West Peachtree Street, N.E.
Suite 2000
Atlanta, Georgia 30309-3400
404-817-8500
FAX 404-881-0470
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Rio de Janeiro
São Paulo
Tel Aviv*
Tokyo

* Representative Offices

August 28, 2001

PATREA L. PABST
404-817-8473

RESPONSE REQUESTED

Internet Address:
ppabst@hklaw.com

Christine Ballman, Esq.
Esperion Therapeutics, Inc.
695 KMS Place
3621 S. State Street
Ann Arbor, MI 48108

Re: ESPN 9004 CIP U.S.S.N. 09/924,222
*"Liposomal Compositions and Methods of Using
Liposomal Compositions to Treat Dislipidemias"*
Wendi V. Rodriguez, Kevin Jon Williams, and Michael J. Hope

Dear Christine:

Enclosed is a copy of the new patent application, "Liposomal Compositions, and Methods of Using Liposomal Compositions to Treat Dislipidemias" by Wendi V. Rodriguez, Kevin Jon Williams, and Michael J. Hope, which was filed in the U.S. Patent and Trademark Office on August 7, 2001. This application is in place of the application filed by Witold Ziarno in October 2000, which was supposed to have claimed priority to both Kevin Williams' earlier patent application, as well as the UBC application by Mick Hope and Wendi Rodriguez.

Also enclosed are copies of the (a) Declaration for Patent Application; (b) Assignment of rights in the application from Wendi V. Rodriguez and Michael J. Hope to The University of British Columbia; and (c) Assignment of rights in the application from Kevin Jon Williams to Esperion LUV Development, Inc. **By copy of this letter to each inventor, we are forwarding the Declaration and the respective Assignment for signature.**

ESPN 9004 CIP
078231/00001

Christine Ballman, Esq.
August 28, 2001
Page 2

We have enclosed a Power of Attorney or Authorization of Agent, and a Statement Under 37 C.F.R. § 3.73(b) for signature. Please have an official empowered to act on behalf of Esperion LUV Development, Inc. sign, but not date, the Power of Attorney and the Statement and return them to us as soon as possible for filing in the U.S. Patent and Trademark Office. **We are forwarding under separate cover to The University of British Columbia and Kevin Williams copies of this letter, the application, the Declaration, and each Assignment, and an original Power of Attorney or Authorization of Agent, and Statement Under 37 C.F.R. § 3.73(b) for signature.**

Also enclosed is a form to be completed by you and returned to us in the enclosed self-addressed stamped envelope. This form will help us to keep this file in order and provide the appropriate parties with copies of correspondence and documents filed in the U.S. Patent and Trademark Office.

The U.S. Patent and Trademark Office imposes a duty of disclosure on applicants for a patent, their attorneys, assignee and others who are or have been substantively involved with the application. The duty is described in 37 C.F.R. § 1.56 which states that:

Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information that is not material to the patentability of any existing claim.

Information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application.

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

In order to comply with this duty, an Information Disclosure Statement with copies of cited references should be filed with the U.S. Patent and Trademark Office by **November 7, 2001**. This duty is a continuing one. An Information Disclosure Statement submitted shortly after the application is originally filed should be supplemented when new information material to examination of the application is discovered, as long as the application remains pending.


By copy of this letter to each inventor, I am requesting that they keep me informed of any additional written or oral prior art, or any other information that may be material to patentability, such as operability, or utility, of the claimed invention which they are now, or subsequently become aware of, during prosecution of this application. Pursuant to these rules, this information must be cited to the U.S. Patent and Trademark Office within three months of filing the application or two months of becoming aware of the information.

Christine Ballman, Esq.
August 28, 2001
Page 4

Please do not hesitate to call me if you have any questions.

Very truly yours,

HOLLAND & KNIGHT LLP

A handwritten signature in dark ink, appearing to be 'Pabst', with a large, stylized 'P' and a horizontal line extending to the right.

Patrea L. Pabst

PLP:cmp
Enclosures

c: Dr. Kevin Jon Williams (w/enclosures)
Dr. Michael J. Hope (w/enclosures)
Ms. Wendi V. Rodriguez (w/enclosures)
William W. Schwarze, Esq. (w/enclosures)
Ms. Annari Faurie (w/o enclosures)
Ms. Sharon Moon (w/o enclosures)

ATL1 #479687 v1

Law Offices

HOLLAND & KNIGHT LLP

One Atlantic Center
1201 West Peachtree Street, N.E.
Suite 2000
Atlanta, Georgia 30309-3400

404-817-8500
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West Palm Beach

International Offices:

Buenos Aires*
Mexico City
Rio de Janeiro
São Paulo
Tel Aviv*
Tokyo

*Representative Offices

August 28, 2001

RESPONSE REQUESTED

PATREA L. PABST
404-817-8473

Internet Address:
ppabst@hklaw.com

Ms. Annari Faurie
Patent Manager
University-Industry Liaison Office
The University of British Columbia
IRC Room 331
2194 Health Sciences Mall
Vancouver, British Columbia
CANADA V6T 1Z3

Re: ESPN 9004 CIP U.S.S.N. 09/924,222
*"Liposomal Compositions and Methods of Using
Liposomal Compositions to Treat Dislipidemias"*
Wendi V. Rodriguez, Kevin Jon Williams, and Michael J. Hope

Dear Annari:

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ESPN 9004 CIP
078231/00001

Ms. Annari Faurie
August 28, 2001
Page 2

forwarding the Declaration and the respective Assignment for signature.

We have enclosed a Power of Attorney or Authorization of Agent, and a Statement Under 37 C.F.R. § 3.73(b) for signature. Please have an official empowered to act on behalf of The University of British Columbia sign, but not date, the Power of Attorney and the Statement and return them to us as soon as possible for filing in the U.S. Patent and Trademark Office. **We are forwarding under separate cover to Esperion Therapeutics, Inc. copies of this letter, the application, the Declaration, and each Assignment, and an original Power of Attorney or Authorization of Agent, and Statement Under 37 C.F.R. § 3.73(b) for signature.**

Please advise us if this application is licensed or optioned and, if so, to whom and whether the licensee is entitled to small entity status.

The U.S. Patent and Trademark Office imposes a duty of disclosure on applicants for a patent, their attorneys, assignee and others who are or have been substantively involved with the application. The duty is described in 37 C.F.R. § 1.56 which states that:

Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information that is not material to the patentability of any existing claim.

Information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

- (2) It refutes, or is inconsistent with, a position the applicant takes in
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application.
- (2) Each attorney or agent who prepares or prosecutes the application;
and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

In order to comply with this duty, an Information Disclosure Statement with copies of cited references should be filed with the U.S. Patent and Trademark Office by **November 7, 2001**. This duty is a continuing one. An Information Disclosure Statement submitted shortly after the application is originally filed should be supplemented when new information material to examination of the application is discovered, as long as the application remains pending.

By copy of this letter to each inventor, I am requesting that they keep me informed of any additional written or oral prior art, or any other information that may be material to patentability, such as operability, or utility, of the claimed invention which they are now, or subsequently become aware of, during prosecution of this application. Pursuant to these rules, this information must be cited to the U.S. Patent and Trademark Office within three months of filing the application or two months of becoming aware of the information.

Ms. Annari Faurie
August 28, 2001
Page 4

Please do not hesitate to call me if you have any questions.

Very truly yours,

HOLLAND & KNIGHT LLP



Patrea L. Pabst

PLP:cmp
Enclosures

c: Dr. Kevin Jon Williams (w/enclosures)
Dr. Michael J. Hope (w/enclosures)
Ms. Wendi V. Rodriguez (w/enclosures)
William W. Schwarze, Esq. (w/enclosures)
Christine Ballman, Esq. (w/o enclosures)
Ms. Sharon Moon (w/o enclosures)

ATL1 #479752 v1

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* Representative Offices

August 28, 2001

VIA FEDERAL EXPRESS

PATREA L. PABST
404-817-8473

Internet Address:
ppabst@hklaw.com

William W. Schwarze, Esq.
Akin, Gump, Strauss, Hauer & Feld, L.L.P.
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, Pennsylvania 19103

Re: ESPN 9004 CIP U.S.S.N. 09/924,222
*"Liposomal Compositions and Methods of Using
Liposomal Compositions to Treat Dislipidemias"*
Wendi V. Rodriguez, Kevin Jon Williams, and Michael J. Hope

Dear Bill:

Pursuant to our telephone conversation today, enclosed is another copy of the combined application, including the declaration, assignment by Kevin Williams, transmittal including inventor information sheet and continuity information, and postcard with serial number and filing date.

Also enclosed is a copy of U.S. Patent No. 6,139,871 to Hope and Rodriguez and the draft publication sent to Biochemistry Biophysica Acta

William W. Schwarze, Esq.
August 28, 2001
Page 2

by Wendi Rodriguez as acknowledged by the letter dated, June 15, 1992. Additional data relating to the rabbit data were subsequently added to the paper. The paper is relevant to at least claims 1, 4, 9, 10, 13, 15, and 16 of the pending application.

Very truly yours,

HOLLAND & KNIGHT LLP



Patrea L. Pabst

PLP:aw

Enclosures

c: Christine Ballman, Esq. (w/o enclosures)

ATL1 #481541 v1

From: AISHA WYATT (404) 817-8897
HOLLAND AND KNIGHT LLP
1201 W. PEACHTREE STREET
SUITE 2000
ATANTA, GA, 30309

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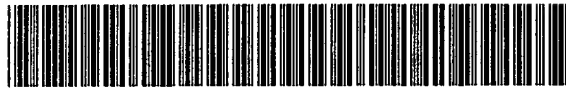
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T : William W. Schwarze (215) 965-1200
Akin, Gump, Strauss, Hauer & Feld,
One Commerce Square
2005 Market Street, Ste. 2200
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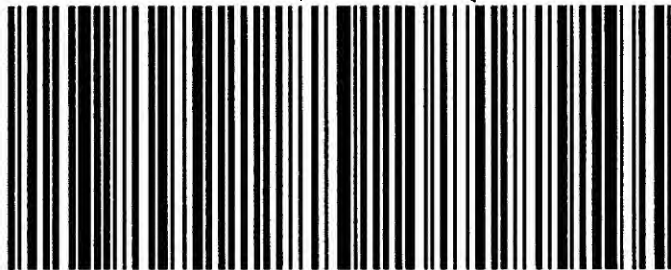
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WYATT, AISHA (ATL - X48597)

From: sysdeliv@esprim5.prod.fedex.com
Sent: Thursday, September 06, 2001 10:37 AM
To: WYATT, AISHA (ATL - X48597)
Subject: FedEx shipment 790152061709

Our records indicate that the shipment sent from AISHA WYATT/HOLLAND AND KNIGHT LLP to William W. Schwarze/Akin, Gump, Strauss, has been delivered. The package was delivered on 9/6/2001 at 9:41 AM and signed for or released by R.HARDING.

The ship date of the shipment was 9/5/2001.

The tracking number of this shipment was 790152061709.

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October 31, 2001

PATREA L. PABST
404-817-8473

Internet Address:
ppabst@hklaw.com

VIA FAX AND FIRST CLASS MAIL

William W. Schwarze, Esquire
Akin, Gump, Strauss, Hauer & Feld, LLP
One Commerce Street
2005 Market Street, Suite 2200
Philadelphia, PA 19103

Re: U.S.S.N. 09/924,222 "Liposomal Compositions and Methods of Using Liposomal Compositions to Treat Dislipidemias" filed August 7, 2001 by Wendi V. Rodriguez, Kevin Jon Williams and Michael J. Hope

Dear Bill:

We are disappointed that we still have had essentially no reply regarding our request that Dr. Williams execute the Declaration of Inventorship for the above-identified patent application, filed August 7, 2001, when the time period expired for filing the declaration in the same application previously filed by Witold Ziarno, formerly Dr. Williams' attorney on this matter, and the application went abandoned. The Declaration signature request was initially sent to Dr. Williams by our office on June 28, 2001, with further correspondence and copies on July 5, July 18, August 3, August 6, and August 28, 2001. At your request, a copy of the above-identified re-filed application was provided in our letter of August 28, 2001, along with a copy of the previously issued patent U.S. Patent No. 6,139,871 to Hope and Rodriguez, a copy of the paper sent to Biochemistry Biophysica Acta by Wendi Rodriguez prior to June 15, 1992 (and prior to any interactions between Drs. Rodriguez and Hope with Dr. Williams). Additional supporting materials and related office actions were provided to Dr. Williams, at his request, on August 31, 2001.

We have made all efforts to provide you, Dr. Williams and Jeffrey Saltz with information you requested and that is otherwise relevant to an assessment of this matter. We have also made ourselves, Wendi and others at Esperion, available for

William W. Schwarze, Esquire

October 31, 2001

Page 2

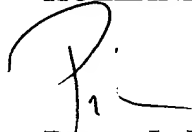
discussion upon Dr. Williams' request. You had stated on September 5, 2001, that you and Dr. Williams would review these materials, as well as the patent application, and respond to our request within one week of our discussion. Recently you told Christine Ballman that you have not reviewed the material.

Pursuant to the Agreement and Plan of Merger and Reorganization ("Merger Agreement") and related documents, Dr. Williams has an obligation to review and execute these documents promptly but has failed to do so. See the enclosed copies of relevant sections of the Merger Agreement (pages 4, 25, and 45; see in particular Article 5, sections 5.1(a) and (e) and Article 10, section 10.3), Technology Acquisition Agreement (see in particular sections 1(c) and 1(e), 2(b)), Release from November 2000 (see especially section 8), and Amendment to Technology Acquisition Agreement (see in particular section 4. We note that among other things, the Merger Agreement (Article 10, section 10.3) requires that the officers of Talaria, last in office, and certain other Talaria-related persons do all things reasonably necessary to vest, perfect and confirm title to the patent applications in Esperion. By copy of this letter, Rock Hill Ventures, Inc. is hereby also reminded of such obligations in this matter. Dr. Williams' failure to comply with the foregoing obligations has had serious detrimental consequences, including without limitation, significantly shortened potential patent term and additional legal costs to Esperion. These failures to act are against the interests of all concerned parties, including Esperion stockholders and former Talaria stockholders.

We would like to resolve these issues as quickly as possible. Should you not be able to do so in the next 30 days, Esperion will pursue other remedies.

Very truly yours,

HOLLAND & KNIGHT LLP



Patrea L. Pabst

PLP:cb;jh

Attachments

C: Christine Ballman, Esquire

Dr. Kevin Jon Williams

Mr. Charles Hadley, Rock Hill Ventures, Inc.

Dr. Dennis Goldberg

Kathleen Shay, Esquire

Jeffrey Saltz, Esquire

Law Offices

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January 9, 2002

PATREA L. PABST
404-817-8473

Internet Address:
ppabst@hklaw.com

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

RESPONSE REQUESTED

Kevin Jon Williams, M.D.
Division of Endocrinology,
Diabetes & Metabolic Diseases
Thomas Jefferson University
1020 Locust Street, Suite 348
Philadelphia, Pennsylvania 19107-6799

Re: ESPN 2004 U.S.S.N. 09/924,222 *"Liposomal Compositions, and
Methods of Using Liposomal Compositions to Treat Dislipidemias"*
Wendi V. Rodriguez, Kevin Jon Williams, and Michael J. Hope

Dear Dr. Williams:

The above-identified patent application was filed on August 7, 2001.

We forwarded to you via First Class Mail on August 28, 2001, a copy of our letter to Christine Ballman at Esperion Therapeutics, Inc. reporting the new application, enclosing a copy of the application, the Declaration, and the Assignment for signature.

We forwarded via Federal Express to William Schwarze at the Akin, Gump firm on August 28, 2001, a copy of the application, the Declaration, and the Assignment.

ESPN 2004
078231/00051

Kevin Jon Williams, M.D.
January 9, 2002
Page 2

A second letter was sent via facsimile and First Class Mail to William Schwarze on October 31, 2001, requesting your signature on the documents pursuant to the Agreement and Plan of Merger and Reorganization executed on October 2, 1998.


To date, no response has been received, in spite of our request for a response within 30 days of our October 31, 2001, letter to William Schwarze.

Enclosed is another copy of the Declaration for Patent Application, and the Assignment of rights in the application from you to Esperion LUV Development, Inc. Please sign and date the Declaration and the Assignment, and return them to us immediately. Please note that the Assignment should be witnessed by a Notary Public at the time of signing.

The deadline for filing the executed Declaration for Patent Application is March 17, 2002. If the executed Declaration for Patent Application is not filed with the U.S. Patent and Trademark Office by March 17, 2002, the application will be abandoned.

Very truly yours,

HOLLAND & KNIGHT LLP



Patrea L. Pabst

PLP:cmp
Enclosures

c: Christine Ballman, Esq. (w/o enclosures)
William W. Schwarze, Esq. (w/enclosures)
Jeffrey S. Saltz, Esq. (w/o enclosures)

ATL1 #501513 v1